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April 22, 2008

VIA FACSIMILE AND FEDERAL EXPRESS

Honorable Charles L. Briant
United States District Judge
United States District Court for the
Southern District of New York
300 Quarropas Street
White Plains, New York 10601-4150

Re: John E. Andrus Memorial, Inc. (d/b/a Andrus on Hudson) v. Daines
07-CV-3432 (CLB) (KNF)

Dear Judge Briant:

As Your Honor is aware, we represent the plaintiff John E. Andrus Memorial, Inc. (d/b/a Andrus on Hudson) in the above-referenced action. I am constrained to correct a misstatement in Mr. Gasior's letter to Your Honor dated April 21, 2008. It is simply untrue that plaintiff would not consent to defendant's requested one-week adjournment of the Court conference currently scheduled for April 25, 2008.

At the outset, our client and we fully appreciate and respect Mr. Gasior's need to assist his parents in what I am sure is a difficult task of relocating them to another health care facility. I told Mr. Gasior that the Andrus would have no objection to adjourning the conference for as long as Mr. Gasior needed, so long as in the interim the status quo in the action would continue. In response, Mr. Gasior alluded to a letter that the Department of Health was intending to send to the Andrus sometime in the very near future. Unfortunately, the contents of this letter have not been shared with me or (to my knowledge) even Mr. Gasior, despite repeated requests. I am led to believe, however, that the threatened letter concerns the revocation or termination of the Andrus' operating certificate as of June 30, 2008 – directly relating to the very relief sought in this action and preliminarily on this motion. The defendant has refused to consent to refraining from issuing the letter for another week, until we appear before Your Honor on May 2, 2008.

We are obviously deeply troubled to have learned of defendant's threatened course of action, particularly in light of Your Honor's intention, expressed clearly on March 28, 2008, to "keep the status quo in effect until we can do that [*i.e.* make findings of fact and conclusions of law]". March 28, 2008 Transcript at page 4. Moreover, we offered to make our motion for a

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preliminary injunction and prepare the requisite proposed findings of fact on only a two-week turnaround so that the Court could make a ruling on preliminary injunctive relief, supplemented by an evidentiary hearing and supported by appropriate factual findings, as early as practicable, with the understanding that the status quo would remain in effect during the accelerated briefing and hearing schedule. Having delivered on our pledge, it is defendant that is now threatening action that would contravene the spirit if not the letter of the Court's instructions given just over two weeks ago.

For the record, we reiterate that the Andrus does in fact consent to the requested one-week adjournment of the Court conference so long as the defendant does not send the threatened letter or take any other action relating in any way to the closure of the Andrus before we next meet with Your Honor.

Respectfully,



Brian T. McGovern

BTM

cc: John Peter Gasior, Esq. (via Facsimile and Federal Express)